

Arizona Senate Health Committee

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HEALTH COMMITTEE

Forty-seventh Legislature
Second Regular Session

LEGISLATION ENACTED

dental board; omnibus (S.B. 1079) – Chapter 77

Makes numerous changes to the State Dental Board (Board) statutes. The major provisions include:

Access to Premises and Materials – Requires the licensee or certificate holder to allow authorized Board personnel access to his or her place of practice for inspection as part of an investigation. Expands the list of materials a licensee or certificate holder must make available to the Board as part of an investigation.

Licensing – Applies to dental hygienists the same licensure exemptions and the same criteria regarding the suspension or denial of the application for a license, restricted permit or examination that currently apply to dentists. Establishes certain licensure exceptions for dentists, dental hygienists and denturists who are disabled or retired and allows the Board to adopt rules regarding the license renewal fee for disabled or retired licensees.

Miscellaneous – Allows the Board to assess a \$500 civil penalty for failure to comply with a Board subpoena. Requires written notification of all types of address changes and any additional places of practice. Establishes retention requirements for patient dental records.

board of psychologist examiners; omnibus (S.B. 1080) – Chapter 29

Makes numerous changes to the Board of Psychologist Examiners (Board) statutes. The major provisions include:

Code of Ethics – Requires the Board to adopt by rule a code of ethics based on the American Psychological Association code of ethics. Violations of an ethical standard adopted by the Board are classified as unprofessional conduct.

Supervision Requirements – Requires the supervised professional experience that is required for licensure to be regular, face-to-face and conducted on a contemporaneous basis. Allows psychologists who provide the supervised experience to be licensed or certified by a Canadian board.

Licensing – Removes the current requirement for the Board to conduct semiannual national examinations and eliminates the \$500 fee the Board may charge for the national examination. Applicants are still required to pass the national examination and specified required scores are established. The Board may approve an applicant to take the national examination before the applicant meets the experience required for licensure. Changes the status of a retired

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psychologist's license from inactive to active, but retains the retired psychologist's exemption from paying the license renewal fee. Adds charter school psychologists to the list of school psychologists who are exempt from licensure. Adds using fraud, misrepresentation or deception to obtain a license or pass an examination to the definition of unprofessional conduct.

Miscellaneous/Other – Allows a licensee to submit a written response to the Board within 30 days of receiving a letter of concern, requires the response to be placed in the licensee's file and stipulates the response is a public document. Removes the requirement that Board members who are university faculty members be from state universities, but requires them to be from universities with doctoral programs in psychology that meet the same criteria identified in statute for licensee doctoral programs. Removes the requirement that the Board's directory be published on a biennial basis, but requires it to be published on the Board's website.

behavioral health; licensure; exemption (S.B. 1081) – Chapter 150

Exempts a Christian Science practitioner from licensure as a behavioral health professional and clarifies that persons who are not providing psychotherapy do not require a license.

AHCCCS; member's estate; notification requirements (S.B. 1082) – Chapter 47

Requires an Arizona Long-Term Care System member's personal representative, within three months of the member's death, to notify the Arizona Health Care Cost Containment System Administration of the member's estate or property if the member was at least 55 years of age and the Administration has not already filed a claim in the estate proceedings.

AHCCCS; liens; notification requirements (S.B. 1083) – Chapter 48

Requires an Arizona Health Care Cost Containment System (AHCCCS) member or the member's legal representative to provide written notice to the AHCCCS Administration within 20 days of the commencement of a civil action or other proceedings to establish the liability of a third party or to collect payment from certain types of insurance coverage or any other source.

Arizona medical board; omnibus (S.B. 1084) – Chapter 78

Adds performing office-based surgery using any form of sedation in violation of Arizona Medical Board (Board) rules to the definition of "unprofessional conduct" for allopathic physicians. Allows the Board to prescribe continuing education requirements as a nondisciplinary tool for licensees. Requires doctors to pay all fees associated with medical competency examinations. Limits the actions of the Executive Director that may be appealed to the Board.

Arizona medical board; pending complaints (S.B. 1102) – Chapter 49

Removes information about pending complaints from physician profiles released by the Arizona Medical Board.

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urgent care centers (S.B. 1104) – Chapter 40

Stipulates that an allopathic or osteopathic physician's office that offers extended hours or same day appointments to existing and new patients is not considered a freestanding urgent care center that is required to be licensed by the Department of Health Services unless it is open 24 hours a day, gives the impression that it provides medical care for urgent, immediate or emergency conditions or routinely provides ongoing medical services to an individual patient for more than eight consecutive hours.

~~low income housing; tax; exemption~~ (NOW: AHCCCS; PACE program) (S.B. 1137) – Chapter 307

Establishes the Comprehensive Care for the Elderly (CCE) program as an alternative service delivery model for Arizona Long-Term Care System (ALTCS) program contractors. The CCE program is a provider directed program of care for the elderly that directly delivers comprehensive medical and social services to eligible members using an interdisciplinary team in a center where primary and other services are provided. Specifies eligibility criteria that will allow certain ALTCS members to enroll in the program.

The CCE organization is exempt from complying with state statutes related to insurance but the program must comply with ALTCS time frames and procedures for grievances and third-party payor recovery.

Requires the AHCCCS Administration to report annually to the Governor and the Legislature on its efforts to support the development and implementation of the CCE program.

~~chiropractic care; standards~~ (NOW: chiropractic care; medical necessity review) (S.B. 1154) – Chapter 293

Allows health care insurers to use a licensed chiropractor to review any direct denial of prior authorization of a chiropractic service that was requested by a chiropractor on the basis of medical necessity.

appropriation; trauma services (S.B. 1193) – Chapter 360

Appropriates \$2 million from the Medically Needy Account of the Tobacco Tax and Health Care Fund in FY 2006-2007 to the Department of Health Services for distribution to the primary trauma center in southern Arizona for costs associated with maintaining trauma center services.

state hospital; capacity (S.B. 1195) – Chapter 159

An emergency measure permanently authorizing the Arizona State Hospital (State Hospital) to defer patients to a wait list if the State Hospital reaches its funded capacity for forensic and civil populations. Requires development of a contingency plan for the placement of patients on wait lists or in other unforeseen circumstances.

HEALTH COMMITTEE (Cont'd.)

Requires the Deputy Director to request and consider the recommendations of representatives from the county board of supervisors, the Arizona Prosecuting Attorneys' Advisory Council and the superior court when establishing the formula for forensic and civil bed allocation and provide the funded capacity and allocation formula to those groups 30 days before the notification of the formula.

Makes permanent the requirement for the court to consider specified factors when selecting the least restrictive treatment option. In addition, the measure permanently requires that the restoration to competency commitment to the State Hospital be subject to funding appropriated by the Legislature.

appropriation; highway construction (NOW: osteoporosis; appropriation) (S.B. 1248) – Chapter 362

Appropriates \$300,000 and three FTE positions from the state General Fund in FY 2006-2007 to the Department of Health Services for numerous initiatives related to osteoporosis.

long-term care; county adjustments (S.B. 1299) – Chapter 365

Reduces, effective October 1, 2006, a county's contribution for the costs of the Arizona Long-Term Care System (ALTCS) program to equal the statewide per capita average, if the county's per capita contribution is greater than the statewide average. Requires the state to pay the difference. Reduces the FY 2006-2007 ALTCS contributions for specified counties and appropriates \$9,253,800 from the state General Fund in FY 2006-2007 to the Arizona Health Care Cost Containment System Administration for the corresponding increase in state ALTCS spending.

kidney programs; appropriations (S.B. 1335) – Chapter 366

An emergency measure that appropriates the following monies from the state General Fund to the Department of Health Services: 1) \$50,000 in FY 2005-2006 for the Nonrenal Disease Management Program; 2) \$100,000 in FY 2006-2007 for the Nonrenal Disease Management Program; and 3) \$200,000 in FY 2006-2007 for the Renal Disease Management Program.

pesticides; child care facilities; notification (S.B. 1350) – Chapter 311

Pesticide Applications – Applies to child care facilities the same requirements regarding notification of pesticide applications that currently apply to schools. Expands the types of pesticide applications that are exempt from notification requirements and limits the emergency pesticide applications that are exempt from notification requirements to those with specified lower toxicity levels. Modifies additional conditions on the exemptions for both nonresidual pesticide applications performed by public health agencies and emergency pesticide applications.

Appropriates \$100,000 in FY 2006-2007 to the Structural Pest Control Commission from the Structural Pest Control Commission Fund for the pesticide application requirements. These requirements become effective on January 2, 2007.

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Department of Health Services (DHS) – Requires the Director of DHS, in consultation with specified groups, to develop a policy to provide parents, guardians, children and personnel with at least 48 hours' notice before pesticides are applied on child care facility properties.

emergency medical services; investigations (S.B. 1354) – Chapter 166

Stipulates that information regarding investigations of emergency medical technicians (EMTs) is not public or subject to civil discovery. Allows the results of the investigation and the decision of the Department of Health Services (DHS) to be available to the public after the investigation is completed.

Allows the Director of DHS to extend the expiration date of an EMT license for 30 days and requires DHS to establish a fee for license extension by rule.

appropriation; autism research (S.B. 1355) – Chapter 367

Appropriates \$7.1 million from the state General Fund in FY 2006-2007 to the Department of Health Services (DHS) for autism research. The monies shall be distributed to an Arizona nonprofit medical research foundation that specializes in biotechnology and collaborates with universities, hospitals, research centers and other biotechnology businesses. DHS may not spend any of the monies for administration.

speech-language pathologists; assistants; licensing (S.B. 1379) – Chapter 390

Establishes licensure requirements and a scope of practice for speech-language pathologist (SLP) assistants. Waives licensure requirements until September 1, 2007, for SLP assistants who meet specified criteria. Requires all services provided by a SLP assistant to be performed under the direction and supervision of a licensed and qualified SLP. Changes the required certification for SLPs practicing with students.

AHCCCS; temporary medical coverage program (S.B. 1442) – Chapter 373

Appropriates \$6.5 million from the state General Fund in FY 2006-2007 to the Arizona Health Care Cost Containment System (AHCCCS) Administration to establish a Temporary Medical Coverage Program (Program), beginning October 1, 2006, for uninsured individuals receiving federal disability insurance benefit payments who meet specified requirements. Individuals who have been enrolled in an AHCCCS program (excluding Healthcare Group) within the past two years are eligible for the Program until they begin receiving Medicare benefits. Program participants pay premiums based on gross household income and will receive all AHCCCS covered services.

~~state trust land lease renewal~~ (NOW: home cooking schools; regulation; exemption) (S.B. 1554) – Chapter 272

An emergency measure that requires the Department of Health Services (DHS) to establish by rule exemptions from regulation for food and drink that is: 1) served at a workplace noncommercial social event; 2) prepared at a cooking school conducted in an owner-occupied

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home; 3) not potentially hazardous; or 4) prepared or served at certain specified employee-conducted functions. Until DHS adopts the exemptions, home cooking school kitchens are exempt from regulation if only one meal is prepared and served per day to 15 or fewer students and the students are informed by a published advertisement, mailed brochure and posted placard that the kitchen is not regulated or inspected.

hospitals; licensure (H.B. 2090) – Chapter 19

Modifies the duration of an accredited hospital's licensure period. For an initial license due to a change of ownership, the duration of the license is three years from the effective date of the hospital's current accreditation. For license renewals, the duration is three years from the expiration date of the current license.

defibrillators; good Samaritans (H.B. 2091) – Chapter 124

Exempts certain individuals from having to comply with statutory requirements in order to receive limited liability for the use of automated external defibrillators (AEDs). Expands the list of persons who receive the limited liability. Requires AEDs to be maintained in good working order.

adult foster care; licensing (H.B. 2107) – Chapter 62

Clarifies that adult foster care homes certified by counties or the Department of Health Services (DHS) are subject to DHS regulation.

health insurance premium tax credit (H.B. 2177) – Chapter 378

SEE FINANCE COMMITTEE.

driver licenses; organ donor information (H.B. 2207) – Chapter 21

An emergency measure allowing the Arizona Department of Transportation (ADOT) to transfer documents regarding organ donor consent that was recorded on driver's licenses or other identity cards prior to 1996 to an organ procurement organization. The transfer of documents must be completed by June 30, 2006. Exempts ADOT from civil liability for good faith acts or omissions related to gathering and releasing that information.

~~dental hygienists; practice~~ (NOW: practice; dental hygienists) (H.B. 2214) – Chapter 108

Expands the duties of dental hygienists employed by a public health agency or school to include the application of topical fluoride. Allows dental hygienists working under contract or as a volunteer for a public health agency or school to screen patients and apply topical fluoride before the patient is examined by a dentist.

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accountable health plans; filing rates (H.B. 2217) – Chapter 109

Requires an accountable health plan (AHP) to include a review of the methods used in establishing the AHP's base premium rates and index rates in the written statement it provides each year to the Director of the Department of Insurance (Director). Requires an AHP to file its base premium rates and index rates with the Director annually and requires the Director to make that information available to the public.

homeopathic board; continuation (H.B. 2282) – Chapter 65

Retroactive to July 1, 2006, continues the Board of Homeopathic Medical Examiners until July 1, 2008.

medical radiologic technology board; continuation (H.B. 2283) – Chapter 66

Retroactive to July, 1, 2006, continues the Medical Radiologic Technology Board of Examiners until July 1, 2016.

nursing care board; investigations continuation (H.B. 2284) – Chapter 22

Retroactive to July 1, 2006, continues the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) until July 1, 2011. Allows the Board to continue an investigation and discipline a person after the person has resigned from practice.

Arizona health facilities authority; continuation (H.B. 2285) – Chapter 67

Retroactive to July 1, 2006, continues the Arizona Health Facilities Authority until July 1, 2016.

umbilical cord blood; donation; information (H.B. 2286) – Chapter 329

Requires health professionals to notify pregnant patients about options related to umbilical cord blood (UCB) stem cells, including discarding and donating the cells, unless providing the information conflicts with the professional's bona fide religious beliefs. Requires health care institutions to allow pregnant women to arrange for a UCB donation unless it would threaten the health of the mother or baby. Persons and institutions that act in good faith are exempt from criminal or civil liability for providing the information. Requires the Department of Health Services to publish and distribute a pamphlet covering UCB issues, including the risks of and potential uses for UCB.

~~medically prescribed foods; disorders; allergies~~ (NOW: eosinophilic gastrointestinal disorder; benefits) (H.B. 2364) – Chapter 233

Requires, beginning January 1, 2007, health insurers who offer prescription drug benefits to cover 75 percent of the cost of amino-acid based formula for eosinophilic gastrointestinal disorders (EGIDs), if the subscriber meets specified conditions. Requires the Arizona Health

HEALTH COMMITTEE (Cont'd.)

Care Cost Containment System and Healthcare Group contractors to cover the formula, beginning January 1, 2007, subject to the same conditions.

~~Arizona centennial; funds; appropriation~~ (NOW: health and welfare; budget reconciliation) (H.B. 2371) – Chapter 331

SEE APPROPRIATIONS COMMITTEE.

~~cities and towns; energy code~~ (NOW: dental hygienist; practice without license) (H.B. 2374) – Chapter 190

Increases to a class 1 misdemeanor the penalty for a person who practices dental hygiene in the state without a license.

prescription medication; reuse (H.B. 2382) – Chapter 136

Requires the Board of Pharmacy (Board) to establish a prescription medication donation program (Program) to redispense certain types of unused medication to Arizona residents and requires the Board to establish eligibility and standards for the Program. Program eligibility must be based on economic need. Specifies criteria for the donation and acceptance of medication.

Pharmaceutical manufacturers are exempt from liability for claims or injuries stemming from the transfer of prescription medications in the Program, including liability for failing to provide product or consumer information and the expiration date of the transferred medication. Persons and entities participating in the Program are also exempt from liability and professional discipline.

health professionals; lab costs; billing (H.B. 2426) – Chapter 207

Prohibits a laboratory from billing any entity other than specified parties for a rendered service and stipulates that a health professional who requests a laboratory to bill directly for a requested service any entity other than specified parties commits an act of unprofessional conduct.

transportation of human remains (H.B. 2442) – Chapter 139

Requires embalmed, unembalmed and disinterred human remains that are being shipped for the purposes of burial, cremation or funeral services to be placed in a suitable container for transportation on a common carrier. Stipulates that unembalmed human remains that are shipped do not need to be transported within 24 hours after death.

~~AHCCCS; verification of eligibility~~ (NOW: AHCCCS; eligibility for services) (H.B. 2448) – Chapter 191

Requires applicants for the Arizona Health Care Cost Containment System (AHCCCS), beginning July 1, 2006, to provide citizenship documentation as required by federal law.

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Requires both the Department of Economic Security and AHCCCS to report to the Governor and the Legislature by November 15, 2006, on eligibility verification and fraud prevention for individuals receiving certain services, including the feasibility of the use of specified types of identification measures.

Requires AHCCCS to report by October 1, 2007, to the Governor and the Legislature on current eligibility verification measures and other specified data.

physical therapist assistants (H.B. 2643) – Chapter 196

Expands the scope of practice for a physical therapist assistant (PTA) to include performing select interventions under the general supervision of a licensed physical therapist (PT). The Board of Physical Therapy (Board) is required to adopt rules to prescribe requirements for the supervision of PTAs and assistive personnel. Temporary requirements for PTA supervision are provided until the Board adopts regulations by rule. Increases the Board's PT membership from three to four and adds a certified PTA to the Board.

small business health insurance plans (H.B. 2698) – Chapter 229

Exempts health insurance issued to a small business that employs at least 2 but not more than 25 persons and has been uninsured for at least six months from certain statutory insurance coverage requirements.

AHCCCS; nonhospital providers; claims (H.B. 2719) – Chapter 212

Requires Arizona Long-Term Care System (ALTCS) program contractors to adjudicate clean claims for ALTCS services submitted by licensed skilled nursing facilities, assisted living providers and home and community based providers within 30 calendar days of receipt by the program contractor. Late claims accrue interest at a rate of one percent per month. The interest is prorated on a daily basis and must be paid when the clean claim is paid.

optometrists; practice designations (H.B. 2765) – Chapter 213

Stipulates the settings in which a licensed optometrist may practice and requires the licensee to practice only under the name, which may include a trade name, that he or she has registered with the Board of Optometry.

board of behavioral health examiners (H.B. 2780) – Chapter 291

Makes numerous changes to the Board of Behavioral Health Examiners (Board) statutes. The major provisions include:

Complaints and Investigations – Allows a credentialing committee to dismiss a complaint that is without merit and prohibits those complaints dismissed by the credentialing committee from being disclosed by the Board on the licensee's complaint history. Requires

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information related to an ongoing investigation by a credentialing committee or the Board to indicate that the investigation is a pending complaint and include a statement that pending complaints are unproven and many are dismissed.

Licensee/Client Relationship Confidentiality – Eliminates the existing confidentiality of the licensee/client relationship and stipulates that the relationship is the same as an attorney/client relationship.

Other Licensing Changes – Requires the Board to issue or deny a license within 180 days of receiving a completed application. Requires the Board to consider an applicant's educational, supervised work experience and clinical supervision equivalencies when determining if an applicant meets the requirements for a reciprocal license. Requires the Board to establish a committee to recommend the specific experience required to be a licensed clinical social worker. Requires the Committee to report by March 31, 2007, and requires the Board to make this information public.

medical records; health professionals (H.B. 2786) – Chapter 236

Requires a health professional to prepare written protocols for the secure storage, transfer and access of patient medical records. The protocols must comply with existing statutory requirements for medical records. Failure to develop the protocols is classified as unprofessional conduct and health profession regulatory boards may take corrective action regarding the proper storage, transfer and access of the medical records.

full funding; Indian health services (H.C.M. 2002)

Urges Congress to authorize and rebudget contract health care service funds appropriated to the Navajo Area Indian Health Service into hospital and clinic budgeted funds to fully fund the Indian Self-Determination and Education Act contract with the Navajo Health Foundation/Sage Memorial Hospital.

VETOES

~~domestic violence; orders of protection~~ (NOW: human egg donor; informed consent) (S.B. 1097) – VETOED

SEE FAMILY SERVICES COMMITTEE.

psychotropic drugs; testing; informed consent (S.B. 1477) – VETOED

Prohibits a state funded institution or agency from testing a psychotropic drug or any previously prescribed or administered psychotropic drug on any person without voluntary and written informed consent. Lists information that must be provided for consent to be considered informed and voluntary.

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Requires the testing institution or agency to report adverse side effects and provide complete financial disclosure to the Department of Health Services (DHS). DHS must submit an annual report of the reported side effects and complete financial disclosure to the Governor, the President of the Senate and the Speaker of the House of Representatives.

In her veto message, the Governor states that this legislation is not needed because adequate and comprehensive procedures currently exist to protect patients. She believes the bill imposes unnecessary burdens on behavioral health professionals and would hold them to a higher standard than other professionals. Finally, she expresses concern that undefined terms in the bill could lead to broad interpretations.

human eggs; sale; prohibition (H.B. 2142) – VETOED

SEE JUDICIARY COMMITTEE.

state air quality rules; hearing (NOW: burden of proof; emergency treatment) (H.B. 2315) – VETOED

Exempts health professionals, hospitals and hospital employees and agents who provide or are consulted to provide emergency-related services in compliance with federal law from liability for civil damages as a result of any act or omission, unless the elements of proof required for medical malpractice cases are met by clear and convincing evidence. Services provided as a result of a disaster are also included in the exemption.

Recodifies existing statute that requires clear and convincing evidence for certain medical malpractice cases related to emergency treatment for the delivery of infants. Narrows the exemption for the clear and convincing evidence requirement for these cases to those in which a patient's medical information is immediately available.

In her veto message, the Governor states that she has not seen data suggesting the bill will solve the shortage of on-call specialists in emergency rooms. The Governor notes that she has created a task force to study the best way to address the problem of access to emergency care.